



# **RESOLVING DISPUTES IN FEDERAL COURT**

## **◆ ALTERNATIVES AND OPTIONS FOR CIVIL CASES ◆**

**An Informational and  
Educational Booklet**



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## ***Welcome To Your United States District Court.***

*As a party to a civil action* in this Court, you have just embarked on a process that lies at the heart of our American justice system. Courts play an important role in our society because they provide a peaceful way for citizens to resolve disputes that they can't resolve between themselves. Indeed, the mission of the federal court is to preserve and enhance the rule of law by providing to society a just, efficient and inexpensive mechanism for resolving the disputes assigned to it by Congress and the Constitution.

- **This Court and the attorneys involved have a common goal:  
To achieve the highest quality of justice,  
In the least possible time, For the least possible expense,  
For the just resolution of your lawsuit.**

### **★ THIS FEDERAL DISTRICT COURT OFFERS OPTIONS ★ AND ALTERNATIVES TO RESOLVE DISPUTES !**

## ***I. WHY DOES THE COURT OFFER OPTIONS?***

*Because* the cases filed in our Court present a wide range of issues and circumstances, no single process for settling differences can be expected to meet the needs of all of these cases in today's complex society. While traditional litigation and the trial of the case can serve parties' interests well in many situations, more and more frequently clients and cases have interests and needs that may be better met through other procedures while preserving the right to trial if the case does not settle.

*Because* this Court has long recognized that full, formal litigation of claims can impose serious economic burdens on parties and can delay resolution of disputes for considerable periods, it provides various settlement and alternative/appropriate dispute resolution (ADR) programs with panels of private attorneys and professionals as well as judicial officers and court personnel to help prevent delay and save costs. In both individual cases and in the management of complex or recurring claims, these options can be integrated with litigation to contribute to effective conflict management.

*Because* it is the lawyers and the litigants themselves who are most familiar with their particular case, availability of diverse dispute resolution and settlement options enables the selection of the process that promises to deliver the greatest benefits to you, the client, and the case. **This court is confident that conscientious use of any of these processes will net satisfying results.**

## ***II. WHAT ARE THE OPTIONS AND AVAILABLE ALTERNATIVES AND THEIR BENEFITS?***

### **♦ A. CIVIL LITIGATION PROCESS AND FULL TRIAL ♦**

**The traditional method** for resolving disputes in a court environment, most commonly referred to as "**litigation**," places the disagreeing parties in a formal and binding process. The final phase of this process is a trial. Specific rules of procedure, discovery and presentation of evidence must be followed. Litigation begins with the fact-finding, investigative or discovery phase of litigation by taking depositions and acquiring and reviewing numerous documents in preparation for trial.

**A trial** is a formal judicial proceeding allowing full examination and determination of all the issues between the parties with each side presenting its case to either a jury or a judge. **Judges or juries** are the decision makers. Cases are randomly assigned to the federal district judges. Federal juries are randomly selected from a pool of registered voters within the district and typically consist of 6 member panels for each civil jury case. The decision is made by applying the facts of the case to the applicable law. That verdict or decision can conclude the litigation process and be enforceable. In some cases, the losing party may have to pay the costs of the lawsuit. In this traditional adversarial, decisional process of dispute resolution, one side will prove their case by the preponderance of the evidence and one side will win and the other will lose.

**After the Verdict.** If appropriate, the loser at trial can appeal the decision to a higher court - a process known as appellate review. It is possible that a case may be reversed and remanded back to the original court for an additional trial. Certain cases also can be appealed from the Circuit Court of Appeals to the U.S. Supreme Court.

- **BENEFITS of Litigation and Trial:**

- ▶ Procedural safeguards - each party has the opportunity to present its evidence and argument and conduct cross-examination
- ▶ Formal rules of evidence and procedure must be followed
- ▶ Public - court proceedings and records are open
- ▶ Involuntary - a defendant must participate
- ▶ The decision is based on the law
- ▶ Your day in court with a judge or jury of your peers deciding the outcome
- ▶ The decision can be final, binding and enforceable
- ▶ You have the right to appeal

## ◆ B. SETTLEMENT OPTIONS AND ADVISORY ◆ METHODS FOR RESOLVING LAWSUITS

Thousands of civil lawsuits are filed every year in this Court. Historically over 95% are resolved without a trial. Direct negotiations between the parties account for many settlements. However, in contrast to litigation and trial, court-sponsored settlement and ADR procedures may lead to

- ▶ solutions that are faster,
- ▶ solutions that are less expensive,
- ▶ solutions that are more creative, and
- ▶ solutions better tailored to all parties' underlying interests.

**Alternative/Appropriate Dispute Resolution (ADR)** within our court setting are procedures used in conjunction with and usually integrated into the litigation process. Most processes are not new - mediation and arbitration have long been a part of our history and culture; others are innovative uses of familiar procedures - summary trials or trials with agreed cost reducing options. Litigation safeguards such as adding third parties and compelling discovery remain available. These procedures are authorized by federal statute or federal rules of procedure and local court rules. **Thus it makes sense to consider these procedures as a case moves through litigation.**

### ★ **PROCEDURES ASSISTED BY FEDERAL** ★ **PANELS OF NEUTRALS:**

**Panels of court-appointed mediators, evaluators and arbitrators** are available to help resolve the controversy using one of the Court's programs. The panel members are trained, experienced attorneys or other professionals who meet the Court's qualifications. Panel members of some court programs are allowed to charge reasonable fees but are also required to provide some free (**pro bono**) service as well. Parties are free to choose whom they want and may choose someone not on a roster if satisfied with that person's qualifications. Résumés and fee schedules of panel members are available in the Court Clerk's office. Through our panel members, you can receive settlement assistance, advisory or evaluative help as well as non-binding decisional guidance. *Our Court is indeed fortunate for this assistance.*

### ◆ **MEDIATION**

Mediation is a flexible, informal, non-binding, confidential process in which an impartial third person, the mediator, facilitates communication, assists negotiation and promotes understanding, reconciliation and settlement. The goal of mediation is to reach a mutually satisfactory agreement resolving all or part of the dispute by carefully exploring not only the relevant evidence and law, but also the parties' underlying interests, needs and priorities. The parties and the mediator work together to generate options for a mutually agreeable solution. It is the parties themselves who are responsible for and participate in any resolution and may agree to a binding settlement. If the case does not settle, it stays on the trial track.

- **BENEFITS of Mediation:**

- ▶ Improves communication across party lines
- ▶ Clarifies issues

- ▶ Helps parties identify and communicate their interests and understand those of their opponent
- ▶ You can choose your own mediator
- ▶ Private and confidential
- ▶ Probes the strengths and weaknesses of each party's legal position Identifies areas of agreement
- ▶ Can avoid uncertainty, time, cost & stress of trial if agreement is reached
- ▶ Reduces hostility
- ▶ Preserves on-going relationships
- ▶ Permits mutually acceptable agreements tailored to meet your needs that may be independent of the legal issues in controversy
- ▶ Parties retain control of their dispute
- ▶ Can result in a win-win solution

#### ◆ **EARLY NEUTRAL EVALUATION**

Early Neutral Evaluation (ENE) is a pretrial process that brings all parties and their counsel together early in the litigation process, in a confidential session, to present summaries of their cases and receive a non-binding advisory assessment by an experienced, impartial attorney with expertise in the subject matter of the case and with whom the parties have confidence. The objective of ENE is to expedite the legal process, identify and clarify issues, and position the case for early resolution by settlement, dispositive motion or trial. By focusing on both the claims and issues as well as case planning and evaluation, significant cost savings can be achieved. An experienced attorney evaluator can serve as a mentor, will also provide an assessment of the strengths and weaknesses of the case, provide discovery and motion planning guidance and, if requested by the parties, may offer settlement assistance. The parties' formal discovery, disclosure and motion practice rights are fully preserved and if no settlement is reached, the case stays on the trial track.

##### ● **BENEFITS of Early Neutral Evaluation**

- ▶ Enhances direct communication between the parties about their claims and supporting evidence
- ▶ Identifies/clarifies central issues in dispute
- ▶ Can provide mentorship
- ▶ Provides a "reality check" for clients and lawyers
- ▶ Provides an assessment of the merits of the case by a neutral expert
- ▶ Assists with discovery and motion planning or informal exchange of key information
- ▶ Focuses on cost reduction, but can assist settlement

#### ◆ **NON-BINDING ARBITRATION**

Court-annexed non-binding arbitration is essentially a decisional dispute resolution process in which an arbitrator or panel of three arbitrators issues a non-binding award on the merits after a short hearing where both sides present their case in a summary fashion to an impartial arbitrator. The arbitrator's non-binding decision (award) addresses only the disputed legal and factual issues and applies legal standards. The program was originated for contract or tort cases of more modest dollar amounts where litigation costs are often disproportionate to the amounts at stake, but it can be utilized for any case that consents. The goal of court-annexed arbitration is to provide parties with an adjudication that is earlier, faster, less formal and less expensive than trial. The proposed award is an advisory decision but may become a non-appealable judgment, thus concluding the lawsuit, if all parties accept it; or it may serve as a catalyst for settlement discussions. Limited use of witness testimony and cross-examination under oath are also available. Either party may reject the non-binding ruling and request to go back to the trial track - a trial de novo demand.

Parties may also opt for this process to be binding by waiving the right to a trial de novo and thus consent to voluntary, binding arbitration.

This procedure is also authorized for attorneys' fee disputes to ascertain the reasonable amount of fees awardable after a determination by the Court that the prevailing party is entitled to recover attorney's fees against the unsuccessful party.

##### ● **BENEFITS of Court-Annexed, Non-binding Arbitration:**

- ▶ Provides litigants with a low-cost, semi-formal adjudication - a "day in court"
- ▶ May choose an arbitrator with specialized expertise
- ▶ Each party will have the opportunity to present evidence and make arguments
- ▶ Allows each litigant and lawyer the opportunity to hear the other side present its case - fosters case evaluation
- ▶ A decision will be made by the arbitrator which may resolve the dispute
- ▶ Award/decision is advisory and non-binding - the right to trial is preserved
- ▶ If the parties use the award to reach a settlement or conclude the litigation by accepting the award or stipulating to high and low parameters on the outcome, trial risks and their costs are eliminated.

## ★ **JUDICIALLY ASSISTED ALTERNATIVES:** ★

Because all judicial officers in this Court are committed to helping you resolve your dispute as fairly, quickly and as efficiently as possible, they are able to conduct a wide variety of proceedings that do just that. This also conserves the resource of the full trial for those disputes in which it is most needed. The following court - authorized options allow for a judge to preside over the process by typically giving only a non-binding, advisory opinion as well as assisting with negotiation and evaluation of the case.

### ◆ **JUDICIAL SETTLEMENT CONFERENCES**

The judicial settlement conference is the mainstay of the Court's settlement procedures. The purpose of this judge-hosted conference is to permit a private, confidential and informal discussion between the attorneys, parties and the settlement judge, shortly before trial, of every aspect of the lawsuit bearing on its settlement value, thus permitting the settlement judge privately to express views concerning the dollar settlement value or other reasonable disposition of the case. The settlement judge promotes communication among the parties, holds one-on-one sessions (caucuses) with each side, facilitates the trading of settlement offers as well as offers an objective assessment of the case and often suggests settlement options. The goal of a judicial settlement conference is to facilitate the parties' efforts to negotiate a settlement of all or part of the dispute thus, if the case does settle, saving the costs of a trial (and any appeal) as well as eliminating the uncertainties that are inherent in a trial.

#### ● **BENEFITS of The Judicial Settlement Conference**

- ▶ Offers the input and evaluation of an experienced judge
- ▶ Promotes communication and cooperation
- ▶ Clarifies issues
- ▶ Private and confidential
- ▶ Informal and flexible
- ▶ Parties retain control of their dispute
- ▶ Preserves on-going relationships - business, employment
- ▶ Allows mutually acceptable agreements tailored to meet parties' needs
- ▶ Offers negotiation assistance focusing on settlement nearer the end of the litigation process by a judicial officer
- ▶ Provides a "reality check" for clients and lawyers
- ▶ Can avoid the uncertainty, time, cost and stress of trial if an agreement is reached
- ▶ Can result in a win-win solution

### ◆ **SUMMARY / ADVISORY TRIALS AND OTHER JUDICIAL SETTLEMENT OPTIONS**

The options that follow are good procedures to consider when your ultimate goal is settlement rather than a lengthy full trial with many expensive witnesses and experts - but jury or judicial input or other expert assistance is needed.

#### ◆ **The Summary Jury Trial**

This is a sophisticated settlement mechanism held before a judicial officer and a federal court jury. It is designed to promote settlement and save costs in complex, trial-ready cases headed for lengthy trials. It is a flexible procedure and can be tailored to the particular case. It occurs in a courtroom of the federal courthouse, like any trial, but its goal is to provide litigants and counsel with an advisory verdict after a short hearing in which the evidence may be presented in condensed form, usually through counsel but occasionally through the limited live testimony of key witnesses. Typically this process is used when it appears that the main barrier to settlement is how a jury would value the case. The jury's non-binding verdict can be used as a basis for subsequent settlement negotiations held after the summary trial.

#### ◆ **The Summary Bench Trial**

This is a similar procedure to the summary jury trial but with summary presentation of the case to a judicial officer (not the assigned judge and usually a magistrate judge) whose advisory decision and subsequent factual and legal analysis serves as an aid to settlement negotiations.

#### ◆ **The Executive Mini-Trial**

This procedure, also referred to as a mini-trial or business mini trial, is more often found as an out-of-court procedure utilizing the services of a well-respected neutral, termed "neutral advisor," to oversee the process but may also be a court-annexed procedure using a judicial officer. Generally counsel make brief, summarized presentations, presenting the clients' best case to the senior executives or managers of the companies involved who are empowered to negotiate settlement. The presiding neutral then facilitates negotiations between the executives and may offer an advisory opinion or candid assessment if requested. The procedure

usually lasts no more than one or two days. The purpose is for the business executives to reach a settlement after weighing and evaluating the opposing parties' presentations. A business solution, rather than one based on legal issues or dollars, may be found that would not be available in a trial of the case.

- **BENEFITS of Summary/Advisory Trials:**

**Summary Jury/Bench Trials:**

- ▶ Offers litigants and attorneys a chance to ask questions and hear the reactions of the judge and/or jury
- ▶ Highlights the uncertainties and expense of proceeding before a judge or jury in a full trial
- ▶ May be predictive of the verdict in a full trial
- ▶ Stipulating to high and low parameters on the outcome for an agreed settlement can eliminate trial risks and result in a win-win solution

**Executive Mini-trials:**

- ▶ Executives with full authority to settle can weigh and evaluate the opposing presentations
- ▶ lines of communication are opened through managed dialogue with the neutral advisor
- ▶ Can be productive for on-going business relationships
- ▶ Possible business, rather than legal, solution

**All Summary/Advisory Trials:**

- ▶ Offers litigants a semi-formal "day in court" with a judicial officer
- ▶ Exposes litigants to opposing views of the evidence
- ▶ Provides "reality testing" for all parties and attorneys
- ▶ Has the ability to demonstrate the legitimacy of the client's position to the opposing party
- ▶ Less costly than private arbitration or full litigation
- ▶ Can conclude in a win-win resolution if settlement is reached
- ▶ Can help prepare for a more focused, sharper trial if there is no settlement

◆ **Special Master**

A magistrate judge or other skilled or highly trained professional can be especially useful when complex or technical facts are disputed. The Court may appoint a magistrate judge or other qualified person to be a special master at any time to serve a wide variety of functions, including discovery manager, fact finder or facilitator of settlement negotiations. Generally the parties pay the master's fees unless a magistrate judge is designated to serve as master. (See Rule 53 of the Federal Rules of Civil Procedure.)

◆ **Customized Procedures**

The Court's ADR staff will work with parties to customize an ADR process to meet the needs of their case or to design an ADR process for them. The ADR Administrator is available for a telephone conference with counsel and clients to discuss ADR options.

◆ **C. LITIGATION / TRIAL PROCESS OPTIONS** ◆

If your case has no material facts in dispute and can be decided as a matter of law, a **summary judgment motion** would be appropriate. **If you wish to exercise your right to trial**, in addition to a full trial before a federal judge, the following trial options are offered to help save time and reduce cost:

◆ **The "Cost Reduction Trial Track" With Limited Discovery And Pretrial Requirements**

This "track" offers you a trial before a judge or jury but at less expense due to stipulations and agreements to limit or waive certain customary procedures such as the number or kind of depositions or motions including agreed modification of certain trial procedure.

◆ **Consent To Civil Trial Before A Magistrate Judge**

Consenting to a U.S. Magistrate Judge to hear your case can offer an earlier, firm trial date and all benefits of a full trial.

#### ◆ D. NON-COURT-SPONSORED DISPUTE RESOLUTION ◆

Often cases filed in our Court are subject to or the parties choose to participate in a dispute resolution or settlement process other than the programs we offer. Obviously direct negotiation between the parties occurs. However, if a pending dispute in this Court is resolved through out-of-court ADR, counsel are requested to advise the Court promptly and file the appropriate closing papers. The following may be useful:

◆ **Voluntary Binding Arbitration** is most often an out-of-court procedure, usually governed by contract, with the submission of a disputed matter to an impartial person (the arbitrator) for decision. (Private, voluntary, binding arbitration should not be confused with our Court's non-binding, court administered arbitration program.) The arbitrator controls the process, will listen to both sides and make a decision. Like a trial, only one side will prevail. But, unlike a trial, you may generally select an arbitrator of your choice with expertise in the subject of your case. The procedure itself may be less formal, less structured, quicker and less expensive than litigation in court.

Also the parties to any action or proceeding filed in this Court may voluntarily stipulate to its referral to binding arbitration upon such terms as they agree, subject to approval by order of the assigned judge. In cases of such referral, or in filed cases where arbitration is ordered pursuant to a specific clause in a contract, the case may be stayed and the provisions of state and federal law governing voluntary arbitration shall control. The right to appeal the arbitrator's binding decision is very limited. The award can be reduced to judgment and enforced in a court.

◆ **Private, Out-Of-Court ADR.** There are numerous private sector providers of ADR services. Private providers may be lawyers, law professors, retired judges or other professionals with specific or general knowledge of the subject and with expertise in dispute resolution techniques. They generally charge fees for their services. It is always advisable to check credentials and references of any ADR provider prior to selection. Public dispute mediation with volunteer providers is also available in our community for a nominal charge.

### III. WHAT ELSE DO I NEED TO KNOW ?

#### FAQ ◆ QUESTIONS & ANSWERS ◆ FAQ

**Q. ATTENDANCE ? Who** is supposed to attend these ADR sessions?

**A.** The actual individuals or specific representatives of a company with full authority to settle the case are required to attend all ADR and settlement sessions as required by the Court's Orders. Governmental entities and boards must send person(s) knowledgeable about the case and the board's position and who has, to greatest extent feasible, the authority to settle. It is expected that this will be at least one sitting member of a board, preferably the chairman of the particular board. Authorized insurance representatives are also required to attend.

**Q. TIME AND MONEY ? How Much** does using any of these procedures cost and **How Long** does a session or hearing last?

**A.** Your lawyer probably has already explained how much it would cost and how long it might take for your case to go through discovery and trial. Selecting a date for a settlement or ADR process as early in the litigation process as practical can certainly reduce costs if the case, or even part of the case, can be resolved or if the issues can be narrowed or discovery more focused. Because of a law called the Speedy Trial Act, criminal felony trials must be held within a certain time period and this frequently causes uncertainty about when your civil trial will be held. A date certain can usually be set for your ADR, settlement or alternative trial option.

**Cost.** Even if your attorney is serving you on a contingency fee basis, cost is always a consideration when undertaking litigation. The cost of using a mediator, evaluator, or arbitrator is usually the cost of one deposition with the parties splitting the fees, except for arbitration where the party seeking a final decision by a judge (a "trial de novo") pays the cost (usually \$150). The costs associated with preparation for and attendance at any conference or session are generally your lawyer's fees, your cost and time in travel and being away from your job. The more "trial-like" the procedure, usually the greater the cost.

**Time.** Designed to last usually ½ day, mediations, evaluations, non-binding arbitrations and judicial settlement conferences can take more time if circumstances of the case warrant it. Summary trials usually require no more than one full day.

**Q. TIMING ? When** is the best time to use court-sponsored ADR?

**A.** At any time you and your attorney and the other side agree it is appropriate. Parties in this Court must plan for settlement and ADR procedures and are encouraged to build them into the litigation management of the case. You should consider ADR early, whether you are seeking assistance with settlement or case management. Conducting full-blown discovery before an ADR session may negate potential cost savings. If you are using ADR for settlement purposes, you should know enough about your case to assess its value and identify major strengths and weaknesses. Even if you plan to negotiate on your own without court assistance, having a date set for an ADR or settlement procedure can provide momentum and "back up" to those direct discussions.



**When - early ADR and settlement programs?** The purpose of an early ADR or settlement program in this Court is to provide parties a vehicle for communication before positions harden and costs become too great. Generally **mediation, early neutral evaluation and non-binding arbitration** are scheduled at the time of the initial status/scheduling conference but may be requested at any time. All should be held as early as is practical. Based on discovery needs, **mediation and ENE** sessions are set by the parties and the mediator or evaluator within the time frame suggested by the Court and usually before the discovery completion date. **Non-binding arbitration** is intended to occur midway through the litigation process preferably before all discovery is completed in an effort to save costs. Discovery for purposes of an early resolution method should be focused on clarifying issues and evaluating the case's settlement potential.

**When - judicial settlement conference?** A settlement conference with a settlement judge, usually one of the magistrate judges, is always set once your case appears on a published trial docket, several weeks before your trial is scheduled to begin. Also if all parties agree, an earlier settlement conference may be arranged.

**When - summary or advisory trials?** When utilizing any of these methods in our Court, they are set near the end of the litigation process, after the close of discovery, when the case is virtually ready for trial. Executive mini-trials can be set earlier if pertinent evidence has been developed and all parties agree. Occasionally these procedures are utilized for trial-ready civil cases when the judge's criminal trial docket precludes a reasonable setting of the civil case.

**When - cost reduction trial?** Agreement to this track should be as early as possible. All parties help set time and cost.

**Q. WHAT IF I'D PREFER TO CHANGE PROCEDURES** to a different settlement or ADR process, can I change procedures?

**A.** Yes. Often as a case progresses, attitudes, circumstances or goals may change and a different approach to resolving the dispute appears more appropriate. The process to which the case was originally referred can be changed by a simple, preferably joint, written application to your assigned judge. Your attorney will normally handle this. Call the ADR staff for help too.

## IV. *WHICH* PROCEDURE SHOULD I CHOOSE ?

To achieve the most satisfactory result from the process chosen, you and your attorney must first discuss your goals and objectives. You must communicate what **you, the client**, really need or want to accomplish not only from the dispute resolution procedure itself but from the lawsuit.


Virtually every type of civil case filed in this Court has participated at one time or another in each of the dispute resolution options. Whether a case settled or not, most cases and the litigants involved have benefitted in some way from the procedure undertaken primarily because their understanding of the case was enhanced. Perhaps issues and claims were identified or narrowed and discovery was streamlined. Probably communication between the parties was improved and possibly hostility was reduced. Often joint gains were achieved. The actual process may not matter as much as how you want to reach your goal. You and your lawyer must look at and analyze such factors as case characteristics, the kinds of people involved, case dynamics, and what is blocking your own attempts to negotiate a resolution. Because your judge has experience in these matters, your case may be referred to a specific process.


To assist you in choosing the process that appears to maximize the potential for achieving your goals, please review with your attorney the following considerations along with each process and its benefits. These considerations are a starting place and can help you focus on how you want the case resolved and can suggest an appropriate process.

### ALL ATTORNEYS AND CLIENTS SHOULD DISCUSS THE FOLLOWING CONSIDERATIONS TOGETHER:

#### • *CONSIDERATIONS* •

✓ Whether you view the lawsuit as a problem to be  solved or a matter that must be won or  lost.

✓ Whether the time  necessary to resolve the matter or reach a final decision is critical.

✓  Whether and how much the \$ costs \$ involved in pursuing a particular option are a factor.

✓ Whether the case is complicated or costly and additional case management could help.



- ✓ Whether you feel you and all the parties and attorneys could benefit from an evaluation by an experienced neutral.
- ✓ Whether you want to use an informal setting and a more flexible process or one that is more formal and has specific rules to follow.
- ✓ Whether you want the dispute to be resolved privately and confidentially or in a public court setting.
- ✓ Whether the parties might be interested in maintaining a relationship.
- ✓ Whether you want to relieve the *stress* of trial through settlement.
- ✓ Whether your dispute should be decided on questions of law, resolved with business principles or a solution found through other fair, practical means.
- ✓ Whether you need or want an opportunity to tell your story to a judge or jury.
- ✓ Whether you want to have control over the outcome (make the decision yourself with the guidance of your attorney) or whether you need someone else, a person with authority (a judge), or a person with expertise (an arbitrator), or jury of your peers, to make the decision.
- ✓ Whether one of the parties seeks to establish legal precedent.
- ✓ Whether you need the protection of the formality of traditional litigation.
- ✓ Whether the process or its outcome is binding and easily enforceable.
- ✓ Whether you need or want the safeguard of the appellate process.



## CONCLUSION

All benefits and safeguards of our civil justice system are available through our Court, but often after litigating a case through trial, even winners may feel like losers in terms of the costs and time commitment involved. Getting an earlier understanding of your case, the quality and tone of communication between the parties can be improved and lead to either better, more focused trials or to settlement of the case thus eliminating the risks of litigation and trial. Exploring solutions to underlying problems that are not exclusively legally based, but are reflective of the parties' underlying economic, social, business, psychological or political interests can lead to collaborative problem solving and mutual solutions.

With a better understanding of the variety of ways disputes can be resolved, with consideration given to various objectives in your case, and with a study of the benefits of the options available, you and your attorney are better equipped to choose an appropriate process for your case. It is the Court's hope that the information in this brochure can assist with informed choices, that your conflict can be more successfully managed and that you receive a just and satisfactory resolution to your dispute.

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**For further information and assistance, please contact Ann D. Marshall, designated ADR Administrator for the Court and the Settlement/ADR Law Clerk at (405)609-5078.**

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*Congress finds that - (1) alternative dispute resolution, when supported by the bench and bar, and utilizing properly trained neutrals in a program adequately administered by the court, has the potential to provide a variety of benefits, including greater satisfaction of her parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements; ... Each United States district court shall authorize, by local rule..., the use of alternative dispute resolution processes in all civil actions...*

**- "Alternative Dispute Resolution Act of 1998"**

**In any perceived conflict between this booklet and the Local Court Rules of this Court or the Federal Rules of Civil procedure, the rules shall govern.**